IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3128 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

FRANCIS GEORGE KERAL

Versus

DY.EXECUTIVE ENGINEER ELECTRICAL SUB DIVISION

Appearance:

1. Special Civil Application No. 3128 of 2004

MR SHALIN N MEHTA for Petitioner No. 1

MR MR MENGDE, ASST. GOVT. PLEADER for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 04/05/2004

ORAL JUDGEMENT

1. Leave to delete respondent No. 3 as party-respondent.

2. Rule. Mr. Mengde, learned Assistant Government Pleader waives services of notice of rule on behalf of the respondents No. 1 and 2. With the consent of the parties, the matter is taken up for final hearing today.

3. Short facts of the case are that the petitioner raised a dispute against the so called termination. It was the case of the petitioner that he was working since 1981, and his services are terminated from 7.7.1997. The dispute was referred to the Labour Court being Reference [LCS] No. 1007 of 1999. The Labour Court ultimately passed an award holding that the Irrigation Department of the State Government cannot be said to be an "industry" and hence the Reference was dismissed. The said award of the Labour Court is under challenge in this petition.

4. I have heard Mr. Mehta for the petitioner and Mr. Mengde, learned Assistant Government Pleader for the respondents.

5. There is no dispute on the point that now, in the decision of the Full Bench of this Court [Coram: R.K. Abichandani, K.R. Vyas & J.M. Panchal, JJ.] dated 12.04.2004 in Spl. C.A. No. 4715 of 2003 and allied matters, it has been held by the Full Bench of this Court that the Irrigation Department of the State Government is an "industry". Therefore, the award passed by the Labour Court dismissing the Reference on the ground that the Irrigation Department of the State Government is not an "industry" deserves to be quashed and set aside and the matter deserves to be remanded for reconsideration in the light of the aforesaid decision of the Full Bench of this Court and the same requires to be decided on the merits of the case. Since the Full Bench has already recorded its findings in the aforesaid judgment, no further discussion in this regard would be required.

6. In view of the above, the award dated 10.02.04 passed by the Labour Court, Surat in Reference [LCJ] No. 1007 of 1999 is quashed and set aside. The Reference is remanded to the Labour Court and it shall stand restored to the file of the Labour Court, and the Labour Court shall decide the Reference on merit in the light of the observations made by this Court hereinabove and in accordance with law. It will be open for the petitioner to move the Labour Court for early disposal of the Reference.

7. The petition stands allowed to the aforesaid extent. Rule made absolute accordingly. No order as to

costs.

[JAYANT PATEL, J.]

mathew